

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

ANGENETTE P.,

Plaintiff,

V.

Civil Action No: 2:21cv213

SOCIAL SECURITY ADMINISTRATION,

Defendant.

**UNITED STATES MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**

Plaintiff Angenette P. ("Plaintiff") brought this action under 42 U.S.C. § 1383(c)(3), seeking judicial review of the decision of the Commissioner of Social Security regarding Disability Insurance Benefits under Title II of the Social Security Act. ECF No. 3 at 2. This action was referred to the undersigned United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) by order of reference filed June 29, 2021. ECF No. 10.

The Court granted Plaintiff's motion to proceed *in forma pauperis*, and she filed her complaint on April 20, 2021. ECF Nos. 2, 3. Defendant filed an answer on June 28, 2021. ECF No. 8. On June 29, 2021, the undersigned entered an order directing Plaintiff to file a motion for summary judgment July 29, 2021. ECF No. 11. On August 17, 2021, Defendant filed a motion to dismiss the case for lack of prosecution, with a memorandum in support and a *Roseboro* Notice. ECF Nos. 12–14. The notice, issued pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975) and Local Civil Rule 7(K), advised Plaintiff that failure to respond to the motion to dismiss within 21 days could result in dismissal of the action. ECF No. 14.

On September 16, 2021, the Court entered a show cause order ordering Plaintiff to file

within fourteen (14) days of the date of the Order an explanation and show cause why the undersigned should not recommend to the United States District Court Judge that her complaint be dismissed for failure to prosecute or to comply with the rules and order of the Court. ECF No. 15. On October 4, 2021, Plaintiff requested an extension of time to file her motion for summary judgment. ECF No. 16. The Court granted the extension and gave Plaintiff until November 22, 2021, to file her motion for summary judgment. ECF No. 17.

Despite these orders, Plaintiff has failed to file a motion for summary judgment or any explanation for her failure to so file. She has failed to prosecute this case and comply with the orders of this Court. Therefore, the case should be dismissed pursuant to Federal Rule of Civil Procedure 41(b).

RECOMMENDATION

For the foregoing reasons, the Court recommends that Defendant's Motion to Dismiss, ECF No. 12, be **GRANTED** and the Complaint, ECF No. 3, be **DISMISSED WITHOUT PREJUDICE** pursuant to Federal Rule of Civil Procedure 41(b).

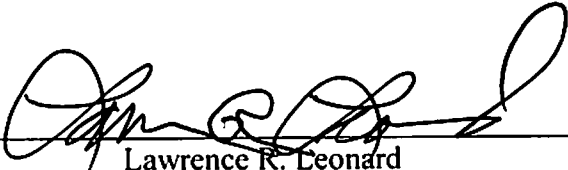
REVIEW PROCEDURE

By copy of this report and recommendation, the parties are notified that pursuant to 28 U.S.C. § 636(b)(1)(C):

1. Any party may serve on the other party and file with the Clerk of the Court specific written objections to the above findings and recommendations within fourteen days from the date this Report and Recommendation is forwarded to the objecting party, *see* 28 U.S.C. § 636(b)(1)(C) and Federal Rule of Civil Procedure 72(b), computed pursuant to Federal Rule of Civil Procedure Rule 6(a). A party may respond to another party's specific written objections within fourteen days after being served with a copy thereof. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

2. A United States District Judge shall make a *de novo* determination of those portions of this Report and Recommendation or specified findings or recommendations to which objection is made.

The parties are further notified that failure to file timely specific written objections to the above findings and recommendations will result in a waiver of the right to appeal from a judgment of this Court based on such findings and recommendations. *Thomas v. Arn*, 474 U.S. 140 (1985); *Carr v. Hutto*, 737 F.2d 433 (4th Cir. 1984), *cert. denied*, 474 U.S. 1019 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984), *cert. denied*, 467 U.S. 1208 (1984).



Lawrence R. Leonard
United States Magistrate Judge

Norfolk, Virginia
June 3, 2022